

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KIMBERLY L. MARTIN,

Plaintiff,

vs.

NEBRASKA METHODIST HEALTH
SYSTEM, INC.,

Defendant.

8:17CV121

ORDER

This matter is before the Court on Defendant's Amended Motion to Amend Defendant's Answer and Affirmative Defenses. ([Filing No. 27.](#)) The motion will be granted.

DISCUSSION

Under Federal Rule of Civil Procedure 15, the Court should “freely give leave” to amend a pleading “when justice so requires.” [Fed. R. Civ. P. 15](#). Nevertheless, a party does not have an absolute right to amend and “denial of leave to amend may be justified by undue delay, bad faith on the part of the moving party, futility of the amendment or unfair prejudice to the opposing party.” [Amrine v. Brooks, 522 F.3d 823, 833 \(8th Cir. 2008\)](#) (quotation and citation omitted). Also, “[i]f a party files for leave to amend outside of the court’s scheduling order, the party must show cause to modify the schedule.” [Popoalii v. Corr. Med. Servs, 512 F.3d 488, 497 \(8th Cir. 2008\)](#). Whether to grant a motion for leave to amend is within the sound discretion of the district court. *Id.*

Defendant requests that it be granted leave to amend Paragraph No. 34 of its Answer. Paragraph No. 34 admits that Plaintiff was “ineligible for rehire.” ([Filing No. 7.](#)) Defendant contends that it has discovered that its response to Paragraph No. 34 is incorrect. According to Defendant, Plaintiff was actually coded as eligible for rehire. Therefore, Defendant wants to amend its Answer to state: “Defendant admits Plaintiff applied for reemployment in June 2016 but denies the remaining allegations in Paragraph No. 34.” ([Filing No. 25-1.](#))

Plaintiff argues that Defendant's motion should be denied as untimely because the deadline to amend pleadings, as set forth in the Court's progression schedule, has expired. ([Filing No. 12.](#)) Plaintiff contends that Defendant has not shown good cause for allowing the amendment outside the amended pleadings deadline. Plaintiff further asserts that granting Defendant leave to amend its Answer would be tantamount to allowing Defendant to withdraw an admission of fact.

The Court finds Defendant has shown good cause to amend its Answer. Defendant represents that it learned during discovery that its response was simply mistaken. The interests of justice support amendment as it will facilitate a decision on the merits of the case. Also, Plaintiff will not be unduly prejudiced. Discovery is still open and trial is not scheduled to take place until February 4, 2019. There remains ample time to prepare this case for trial. Therefore, Defendant will be allowed to amend Paragraph No. 34 of its Answer as proposed.

Accordingly,

IT IS ORDERED that Defendant's Amended Motion to Amend Defendant's Answer and Affirmative Defenses ([Filing No. 27](#)) is granted. Defendant shall file its Amended Answer by July 18, 2018.

Dated this 9th day of July, 2018.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge